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## NOTICE OF ALLOWANCE AND FEE(S) DUE

24113

7590

10/16/2009

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.  
4800 IDS CENTER  
80 SOUTH 8TH STREET  
MINNEAPOLIS, MN 55402-2100

EXAMINER

CHENG, JACQUELINE

ART UNIT

PAPER NUMBER

3768

DATE MAILED: 10/16/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,384	04/01/2004	Eilaz Babev	4311.07/U03	7585

TITLE OF INVENTION: ULTRASONIC METHOD AND DEVICE FOR WOUND TREATMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	01/19/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
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**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

24113 7590 10/16/2009  
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**80 SOUTH 8TH STREET**  
**MINNEAPOLIS, MN 55402-2100**

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,384	04/01/2004	Eilaz Babev	4311.07/US03	7585
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nonprovisional	YES	\$755	\$300	\$0	\$1055	01/19/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
CHENG, JACQUELINE	3768	600-439000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_  
3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100				
			ART UNIT	PAPER NUMBER
			3768	

DATE MAILED: 10/16/2009

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 739 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 739 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

# Notice of Allowability

## Application No.

10/815,384

## Examiner

JACQUELINE CHENG

## Applicant(s)

BABAEV, EILAZ

## Art Unit

3768

### - The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/17/08.
2. ☒ The allowed claim(s) is/are 1,3-5,8,37-49,63-73,76-81 and 93-95.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 4/15/09
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.  
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Amy Salmela on October 2, 2009.

The application has been amended as follows:

1. **(Currently amended)** A method for treating tissue using ultrasonic energy comprising the steps of:  
applying a medicament to tissue before applying ultrasonic energy; and  
delivering ultrasonic energy from a non-contact distance from the tissue and the medicament to the medicament and to the tissue, wherein the ultrasonic energy is delivered simultaneously with delivery of a liquid spray and the ultrasonic energy has intensity capable of penetrating the tissue to a beneficial depth to provide a therapeutic effect to the tissue, and wherein the ultrasonic energy sonicates the medicament and causes the medicament to penetrate the tissue to a beneficial depth to provide a therapeutic effect to the tissue.
2. **(Cancelled)**
15. **(Currently amended)** The method according to claim 1, wherein the medicament is selected from at least one member of the group consisting of: an antibiotic, an ointment, cream, gel, liquid, salve, oil, powder, antibacterial agent, antiseptic agent, insulin, analgesic agent,

conditioner, surfactant, emollient, or other active ingredient.

17. **(Currently amended)** The method according to claim 1, wherein the therapeutic effect is selected from at least one member of the group consisting of increasing blood flow to the tissue, providing a local anesthetic effect and stimulating cell growth.

37. **(Currently amended)** A method for treating a wound comprising the steps of:  
applying a medicament to a wound before applying ultrasonic energy;  
providing a transducer having a distal radiation surface for generating and emitting ultrasonic energy;  
introducing a liquid to the distal radiation surface to produce a spray; and  
delivering the generated and emitted ultrasonic energy to the wound through the spray from a non-contact distance from the surface of the wound and from the medicament applied to the wound, wherein the generated ~~ultrasonic energy~~ and emitted ultrasonic energy penetrates the wound tissue to a beneficial depth to provide a therapeutic effect for decreasing the healing time for the wound, and wherein the non-contact distance is at least 2.5mm from the surface of the wound.

43. **(Currently amended)** The method according to claim 37, wherein said distal radiation surface has ~~transducer has a radiation surface with~~ a surface area dimensioned for achieving delivery of the ultrasonic energy to the wound with an intensity capable of achieving the therapeutic effect.

44. **(Currently amended)** The method according to claim 37, wherein said distal radiation surface has ~~transducer has a radiation surface with~~ a rounded perimeter for achieving delivery of the ultrasonic energy to the wound with an intensity capable of achieving the therapeutic effect.

45. **(Currently amended)** The method according to claim 37, ~~further comprising the steps of:~~  
~~providing a transducer for delivering the ultrasonic energy having a radiation surface; and~~

~~—selecting at least one of a size of a surface area of the radiation surface, a shape of a peripheral boundary of the radiation surface, a frequency of the generated ultrasonic energy, and an amplitude of the generated ultrasonic energy for achieving wherein one or more of the following features of the distal radiation surface are selected to achieve~~ delivery of ultrasonic energy to the wound with an intensity capable of achieving the therapeutic effect; a size of a surface area of the distal radiation surface or a shape of a peripheral boundary of the distal radiation surface.

46. **(Currently amended)** The method of claim 37, ~~further comprising the steps of:~~  
~~—providing a transducer for delivering the ultrasonic energy having a radiation surface; and~~  
~~—selecting a combination wherein one or more of the following features of the distal radiation surface are selected to achieve the therapeutic effect:~~ a size of a surface area of the distal radiation surface, a shape of a peripheral boundary of the distal radiation surface, a shape of the curvature of the distal radiation surface selected from one of flat, concave, convex and a combination thereof, ~~a frequency of the generated ultrasonic energy, and an amplitude of the generated ultrasonic energy for achieving the therapeutic effect.~~

63. **(Currently amended)** A method for treating a wound comprising the steps of:  
applying a medicament to a wound before applying ultrasonic energy;  
generating ultrasonic energy having a particular amplitude and a particular frequency;  
and  
delivering the generated ultrasonic energy to the wound through a liquid spray from a non-contact distance from the medicament and from the surface of the wound, wherein the generated ultrasonic energy penetrates the wound tissue to a beneficial depth to provide a therapeutic effect for decreasing the healing time for the wound, wherein the particular amplitude is indicative of an intensity capable of achieving the therapeutic effect, and wherein the non-contact distance is at least 2.5mm from the surface of the wound.

64. **(Currently amended)** The method according to claim 63, wherein the ultrasonic energy ~~has an~~ particular amplitude is ~~of~~ at least 3 microns.

65. **(Currently amended)** The method according to claim 63, wherein the ~~ultrasonic energy~~ has a particular amplitude is of at least 10 microns.

69. **(Currently amended)** The method according to claim 37, wherein the medicament is selected from at least one member of the group consisting of: an antibiotic, an ointment, cream, gel, liquid, salve, oil, powder, antibacterial agent, antiseptic agent, insulin, analgesic agent, conditioner, surfactant, emollient, or other active ingredient.

70. **(Currently amended)** The method according to claim 63, wherein the medicament is selected from at least one member of the group consisting of: an antibiotic, an ointment, cream, gel, liquid, salve, oil, powder, antibacterial agent, antiseptic agent, insulin, analgesic agent, conditioner, surfactant, emollient, or other active ingredient.

72. **(Currently amended)** The method according to claim 37, wherein the therapeutic effect is selected from one or more members of the group consisting of increasing blood flow to the tissue, providing a local anesthetic effect and stimulating cell growth.

73. **(Currently amended)** The method according to claim 63, wherein the therapeutic effect is selected from one or more members of the group consisting of increasing blood flow to the tissue, providing a local anesthetic effect and stimulating cell growth.

74-75. **(Cancelled)**

80. **(Currently amended)** The method according to claim 67, wherein the medicament is selected from one or more members of the group consisting of: an antibiotic, an ointment, cream, gel, liquid, salve, oil, powder, antibacterial agent, antiseptic agent, insulin, analgesic agent, conditioner, surfactant, emollient, or other active ingredient.



81. **(Currently amended)** The method according to claim 68, wherein the medicament is selected from one or more members of the group consisting of: an antibiotic, an ointment, cream, gel, liquid, salve, oil, powder, antibacterial agent, antiseptic agent, insulin, analgesic agent, conditioner, surfactant, emollient, or other active ingredient.

93. **(New)** The method of claim 1, wherein the liquid spray includes a medicament.

94. **(New)** The method of claim 37, wherein the liquid includes a medicament.

95. **(New)** The method of claim 63, wherein the liquid spray includes a medicament.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACQUELINE CHENG whose telephone number is (571)272-5596. The examiner can normally be reached on M-F 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jacqueline Cheng/  
Examiner, Art Unit 3768

/Long V Le/  
Supervisory Patent Examiner, Art Unit 3768